

## § 520.2

of student-learners at wages lower than the minimum wage applicable under section 6 of the Act. Such certificates shall be subject to the terms and conditions hereinafter set forth.

[18 FR 3290, June 10, 1953]

### § 520.2 Definitions.

As used in the regulations contained in this part:

(a) A *student-learner* is a student who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis, pursuant to a bona fide vocational training program.

(b) A *bona fide vocational training program* is one authorized and approved by a State board of vocational education or other recognized educational body and provides for part-time employment training which may be scheduled for a part of the work day or work week, for alternating weeks or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school, college, or university.

[18 FR 3290, June 10, 1953]

### § 520.3 Application for a special student-learner certificate.

(a) Whenever the employment of a student-learner at wages lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, is believed necessary to prevent curtailment of opportunities for employment, an application for a special certificate authorizing the employment of such student-learner at subminimum wages shall be filed in duplicate by the employer with the authorized representative of the Administrator at the appropriate Regional or Caribbean Office of the Wage and Hour Division, U.S. Department of Labor.

(b) Application must be made on the official form furnished by the Division and must be signed by the employer, the appropriate school official and the student-learner. The application must contain all information required by

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such form, including among other things, a statement clearly outlining the vocational training program and showing, particularly, the processes in which the student-learner will be engaged when in training on the job; a statement clearly outlining the school instruction directly related to the job; the total number of workers employed in the establishment; the number and hourly wage rate of experienced workers employed in the occupation in which the student-learner is to be trained; the hourly wage rate or progressive wage schedule which the employer proposes to pay the student-learner; data regarding the age of the student-learner; the period of employment training at subminimum wages; the number of hours of employment training a week; the number of hours of school instruction a week; and a certification by the appropriate school official that the student named therein will be receiving instruction in an accredited school, college or university and will be employed pursuant to a bona fide vocational training program, as defined in § 520.2(b).

(c) The certification by the appropriate school official must satisfy the following conditions:

(1) The application must be properly executed in conformance with § 520.3.

(2) The employment training must conform with the provisions of § 520.5 (a), (c), (d), and (g) and paragraphs (a) and (c) of § 520.6.

(3) The occupation must not be one for which a student-learner application was previously submitted by the employer and a special certificate was denied by the Administrator or his authorized representative.

[35 FR 13884, Sept. 2, 1970]

### § 520.4 Procedure for action upon application.

(a) The certification by the appropriate school official on an application for a special student-learner certificate authorizing the employment of a student-learner at subminimum wages (see § 520.3(b)) shall constitute a temporary authorization for the employment of a student-learner at wages lower than the minimum wage applicable under section 6 of the act, effective

from the date such application is forwarded to the Division in conformance with § 520.3 and, at the end of 30 days, shall become the permanent special student-learner certificate unless, after review, the Administrator or his authorized representative denies the application, issues a certificate with modified terms and conditions, or expressly extends the period of review.

(b) Upon receipt of an application for the employment of a student-learner, the Administrator or his authorized representative shall review the application for compliance with this part. If an application is to be denied, notification of denial should be made to the appropriate school official, the employer, and the student within the 30 days following the date such application was forwarded to the Division, unless additional time for review is considered necessary or appropriate, and in which case the appropriate school official, the employer, and the student shall be so notified. To the extent feasible, the Administrator or his authorized representative shall provide an opportunity to other interested persons to present data and views on the application before denying a special student-learner certificate.

(c) Whenever a notification of denial is mailed to the employer, such denial shall be without prejudice to any subsequent application, except under the circumstances referred to in § 520.3(c)(3). Two copies of the notification of denial shall be mailed to the appropriate school official, one of which shall be retained for his records and the other shall be presented to the student-learner.

[35 FR 13884, Sept. 2, 1970]

**§ 520.5 Conditions necessary for favorable review.**

The following conditions must be satisfied before a special certificate may be issued authorizing the employment of a student-learner at subminimum wages:

(a) Any training program under which the student-learner will be employed must be a bona fide vocational training program as defined in § 520.2;

(b) The employment of the student-learner at subminimum wages authorized by the special certificate must be

necessary to prevent curtailment of opportunities for employment;

(c) The student-learner must be at least sixteen years of age (or older) as may be required pursuant to paragraph (d) of this section;

(d) The student-learner must be at least 18 years of age if he is to be employed in any activity prohibited by virtue of a hazardous occupation order of the Secretary of Labor (See part 570, subpart E, of this chapter, but note the specific exemptions for student-learners in several of the orders);

(e) The occupation for which the student-learner is receiving preparatory training must require a sufficient degree of skill to necessitate a substantial learning period;

(f) The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations;

(g) The employment of a student-learner must not have the effect of displacing a worker employed in the establishment;

(h) The employment of the student-learners at subminimum wages must not tend to impair or depress the wage rates or working standards established for experienced workers for work of a like or comparable character;

(i) The occupational needs of the community or industry warrant the training of student-learners;

(j) There are no serious outstanding violations of the provisions of a student-learner certificate previously issued to the employer, or serious violations of any other provisions of the Fair Labor Standards Act of 1938, as amended, by the employer which provide reasonable grounds to conclude that the terms of the certificate would not be complied with, if issued;

(k) The issuance of such a certificate would not tend to prevent the development of apprenticeship in accordance with the regulations applicable thereto part 521 of this chapter) or would not impair established apprenticeship standards in the occupation or industry involved;

(l) The number of student-learners to be employed in one establishment must